

Dispute Resolution Through Village Development Committees and Municipalities Grant  
No. 367-G-00-03-00009-00  
(2002-2004)

Final report to USAID

Submitted by:



**The Asia Foundation**

**Kathmandu, Nepal  
Phone: (977-1) 441-8345  
Fax: (977-1) 441-5881  
Email: [nick@taf.org.np](mailto:nick@taf.org.np)**

**January 2005**

## Table of Contents

List of Abbreviations.....	ii
About The Asia Foundation.....	1
Summary of The Asia Foundation’s Local-level Dispute Resolution Project.....	1
Goal and Objectives.....	3
Project Background.....	3
Summary of Project Achievements.....	4
Project Impact.....	8
Project Innovations.....	12
Sustainability.....	16
Lessons Learned and Recommendations.....	17
Appendices	

## List of Abbreviations

ADR	Alternative Dispute Resolution
CeLRRd	Center for Legal Research and Resource Development
DANIDA	Danish International Development Agency
DDC	District Development Committee
DFID	U.K. Department for International Development
ESP	Enabling State Program
IGD	Institute for Governance and Development
LDTA	Local Development Training Academy
LSGA	Local Self Governance Act
MLD	Ministry of Local Development
MLJPA	Ministry of Law, Justice, and Parliamentary Affairs
NGO	Non Governmental Organization
Pro Public	Forum for Protection of Public Interest
RUWDUC	Rural Women's Unity and Development Center
SMD	Social Marketing and Distribution Nepal
SNV	The Netherlands Development Organization
SUSS	Service to Underprivileged Sectors of Society
TAF	The Asia Foundation
UNDP	United Nations Development Programs
UNFPA	United Nations Population Fund
USAID	United States Agency for International Development
VDC	Village Development Committee

## **About The Asia Foundation**

The Asia Foundation is a non-profit, non-governmental organization committed to the development of a peaceful, prosperous, and open Asia-Pacific region. The Foundation supports programs in Asia that help improve governance and law, economic reform and development, women's participation, and international relations. Drawing on 50 years of experience in Asia, the Foundation collaborates with private and public partners to support leadership and institutional development, exchanges, and policy research.

With a network of 17 offices throughout Asia, an office in Washington, D.C., and its headquarters in San Francisco, the Foundation addresses these issues on both a country and regional level. In 2004, the Foundation provided more than \$72 million in program support and distributed almost 800,000 books and educational materials valued at \$28 million throughout Asia.

Current programs in Nepal focus on strengthening law and government accountability; promoting local-level conflict resolution and peace building; broadening economic opportunities; and safeguarding women's rights and security. The USAID-funded Dispute Resolution through Village Development Committees and Municipalities project (USAID Grant No. 367-G-00-03-00009-00) ended October 31, 2004.

## **Summary of The Asia Foundation's Local-level Dispute Resolution Project**

The Asia Foundation (TAF) aims to strengthen the formal and informal legal and judicial framework as an indispensable element of democratic governance in Nepal. While systems of the formal judiciary are somewhat accessible if costly for most people in urbanized areas, it is meaningless to most Nepalis at the local level. In rural areas, even those villagers who can afford the time and expense to travel to a district court are deterred by the inefficiency, corruption, and bias they are likely to encounter when they get there. Most people are unaware of the law or their legal rights and prefer to resolve disputes at the community level. Furthermore, traditional dispute resolution mechanisms are breaking down as Nepali village society changes. In a country with growing competition for scarce resources and simmering social unrest, this situation poses a threat not just to individual rights and security, but also to national stability. Nepalis require skills and attitudes to resolve conflict and build a culture of peace in their communities and beyond.

In early 2002, TAF supported the Ministry of Local Development in developing comprehensive plans for the pilot introduction of community dispute resolution under the Local Self Governance Act, 1999. In September 2002, it funded initial implementation of these plans through a grant to the Institute of Governance and Development (IGD) made possible by the Hewlett Foundation and TAF's General Grant. Funding from United States Agency for International Development (USAID) in November 2002 was provided for the expansion of pilot efforts to an additional eight districts, making for a total of 11 pilot project districts (Banke, Chitwan, Dadeldhura, Dhading, Dhankuta, Dhanusha, Kaski, Mustang, Nawalparasi, Sarlahi, and Tanahu). A total of 75 locations were identified from a baseline survey in these 11 districts, which included 64 VDCs and 11 municipalities. The grant for the pilot project was for the period November 1, 2002 - October 31, 2004.

The pilot project was implemented in partnership with the following five Nepali non-governmental organizations (NGOs):

- Center for Legal Research and Resources Development (CeLRRd)
- Forum for Protection of Public Interest (Pro Public)
- Institute for Governance and Democracy (IGD)
- Rural Women's Unity and Development Center (RUWDUC)
- Service to Underprivileged Sectors of Society (SUSS)

With technical assistance from TAF, partner NGOs drafted guidelines/directives providing for procedures that are mediation-oriented and cohere to the Nepal government's legal provisions for informal alternate dispute resolution; prepared training materials on mediation and trained a pool of 62 core and master trainers of community mediators; provided training to 1,327 community mediators from 64 VDCs and 11 Municipalities of 11 districts; provided refresher training to all master trainers and community mediators previously trained; and in all 75 project locations, provided orientation to government officials, conducted a social marketing/public awareness campaign on community-level mediation, and supported mediation services.

In the nine-month period of actual provision of mediation services (January-September 2004), a total of 1,473 applications were registered, of which 1,185 cases (80%) were settled, 159 cases (11%) were pending, and 129 cases (9%) could not be settled. With an ever-increasing rate of registration of cases and a 90 percent minimum resolution rate in well under a year, the USAID-supported pilot project has established the interest-based facilitated model of community mediation as an effective alternative for dispute resolution in Nepal's socio-cultural setting. Communities are experiencing quick, inexpensive, and effective resolution of disputes, improvement in social and family relations, and improvements in social justice. As a result, there is a high level of commitment to this program at the local level. Furthermore, these successes have increased the capacity and energy of local citizens. Local citizens have great hopes, high energy, and many good ideas for the future of community mediation in their villages and municipalities.

The early successes and high level of acceptance of interest-based facilitated mediation in the 75 pilot locations indicate that the mediation program is meeting a great need of local communities in a culturally acceptable way. In addition to the burgeoning requests from government and quasi-judicial bodies in their areas, many mediators receive frequent requests for cases to be "heard" from surrounding communities as well.

Lessons learned and capacities developed through this project have helped lay the foundations for the expansion of mediation services throughout the country. In November 2004, USAID provided followon support for consolidating and expanding the pilot effort to an additional three districts and 28 VDCs under CA No. 367-A-00-05-00006-00. The followon project incorporates several of the recommendations of the pilot effort, particularly advanced mediation training in human rights advocacy and legal aid networking. By the end of the 2005, a total of 2,766 trained community mediators will be offering dispute resolution services in 103 VDCs and municipalities in 14 districts.

Also with the help of the USAID-funded pilot project, TAF successfully founded and catalyzed an evolving multi-donor partnership that offers excellent prospects for the rapid spread of effective and equitable community mediation as a means of increasing access to justice, as well as building a culture of conflict resolution starting from the grassroots.

## **Goal and Objectives**

The goal of the Dispute Resolution through Village Development Committees and Municipalities project was to improve access to justice and establish a culture of conflict resolution at the local level.

The project had the following three objectives.

1. Establish the necessary enabling legal framework for mediation under the LSGA, 1999.
2. Build the institutional capacity of VDCs and Municipalities to conduct mediation.
3. Increase public awareness of community-level dispute resolution provisions and the availability of local-level capacity to resolve disputes.

## **Project Background**

The Asia Foundation (TAF) began a program in 2001-2002 to strengthen mechanisms for local-level conflict resolution in Nepal, aiming to use key provisions for alternative dispute resolution (ADR) in the Local Self Governance Act of Nepal (LSGA 1999) as foundational elements of the program. Grants to the Ministry of Local Development and to the Ministry of Law, Justice and Parliamentary Affairs enabled key government officials to participate in observation programs of the Sri Lankan community-based mediation boards (May 6-12, 2001) and the Barangay Justice System in the Philippines (September 29 – October 6, 2001). These programs assisted the officials in developing an understanding of the operational aspects of the alternate dispute resolution mechanisms in countries within the Asian region, including their history, organizational structure, selection and training procedures for mediators, the nature of cases and types of results generated, and public perceptions of such programs. Based on this exposure, they were better positioned to assist in operationalizing and improving upon the alternative dispute resolution provisions in the LSGA.

In early 2002, through a grant to the Institute of Governance and Development (IGD), TAF supported the Ministry of Local Development (MLD) in developing comprehensive plans for the pilot introduction of local-level dispute resolution under the LSGA. The pilot project envisaged working primarily with MLD – and with involvement of the Ministry of Law, Justice, and Parliamentary Affairs (MLJPA), the Local Development Training Academy (LDTA), Members of Parliament, and partner NGOs – to help develop and demonstrate workable mechanisms for alternate dispute resolution through VDCs and Municipalities. At the end of the pilot project, MLD was to expand and strengthen implementation of local-level dispute resolution with long-term technical support from TAF, USAID, and other donors interested in the initiative, including DFID and DANIDA.

In May 2002, Prime Minister Deuba dissolved the Lower House of Parliament and scheduled national elections for November 2002. Because elections were called, the Election Commission placed restrictions on signing new projects with government (i.e. MLD), and both the implementation process and the schedule for the pilot project had to be rethought. On October 4, King Gyanendra dismissed Prime Minister Deuba, indefinitely postponing the national elections. This turn of events and the consequent instability of government compelled TAF to revise its intention to work with and through local government at all levels in implementing the pilot project. As an interim measure—which, as events unfolded during 2002-2003, turned out to be a permanent change of plans—TAF funded initial

implementation of the pilot project in September 2002 through another grant to IGD, made possible by the Hewlett Foundation and TAF's General Grant.<sup>1</sup> This grant supported a baseline survey of Chitwan, Mustang, and Tanahu districts to establish socio-legal indicators and select VDCs/Municipalities for the pilot project; initial preparation of training materials (workbook and manual) on mediation; and the drafting of guidelines/directives that provide for procedures that are mediation-oriented and cohere to provisions of the LSGA, 1999.

In November 2002, the United States Agency for International Development (USAID) provided funding for the expansion of pilot efforts to an additional eight districts. In close consultation with USAID and Nepali NGOs known to have an interest in alternate dispute resolution, TAF used the following three criteria to select these additional districts: 1) range of ethnicity and geography; 2) districts affected to varying degrees by the Maoist insurgency; and 3) the presence of capable NGOs with established relationships with target communities and their leaders. In addition to the three districts already selected for support with Asia Foundation and Hewlett Foundation resources, this brought the total number of pilot districts to eleven. There were four terai districts (Banke, Nawalparasi, Sarlahi, and Dhanusha), one inner terai district (Chitwan), five hill districts (Dadeldhura, Tanahu, Kaski, Dhading, and Dhankuta), and one mountain district (Mustang). Details of the five partner NGOs and their district coverage, as negotiated with TAF, are provided in Appendix A. Details of activities conducted under this USAID Grant No. 367-G-00-03-00009-00 for the period November 2002 – October 2004 are reported herein.

## **Summary of Project Achievements**

As with other local-level projects at the time, the dissolution of local elected bodies in mid 2002 posed special challenges for engaging local government in any substantive manner. For TAF, the joint selection of mediator candidates for training and the orientation for VDC/District/Municipality officials on supporting and conducting the actual mediation process were immediate casualties of the local government crisis. To help ensure effective project progress and performance, TAF and its partners closely coordinated project activities with central and local offices of MLD, the Association of DDCs in Nepal, the Municipality Association of Nepal, and the National Association of VDCs in Nepal. In particular, officials of MLD were kept briefed in Kathmandu and participated in district-level orientation programs; and partner NGOs worked closely with local-level administrators, mainly officials of District Development Committees, Village Development Committees (VDC), as well as Municipality secretaries and local elected leaders (both recently incumbent as well as previously in positions of power). This coping strategy worked very well throughout a project period marked by uncertainty of local government, frequent turnover of Chief District Officers and Local Development Officers, and insecurity associated with the Maoist insurgency, which were all real concerns and potential constraints.

During the first 12 months of the two-year project period, efforts were mainly directed at establishing the necessary enabling legal framework for mediation and building the capacity at the local level to resolve dispute through mediation. The latter 12 months of the project focused on delivery of quality mediation services in target districts through refresher training

---

<sup>1</sup> The change in plans to use NGOs as the primary supporters of mediation services, instead of MLD and local government bodies, was also propitious, because the inherent flexibility of NGOs, their substantive strength, and their relative accessibility to communities and organizations at the local level greatly helped TAF to cope with exigencies that would have been difficult to overcome if the pilot project had been implemented through government bodies.

of mediators and close backstopping of mediation, broad public awareness of mediation services through orientation/linkage workshops and social marketing services, networking and coordination of mediation efforts in Nepal, and fundraising for expansion of mediation services to other districts.

The achievements of the project are described in detail below by objective.

### **Objective 1. Establishing enabling framework for mediation under the Local Self Governance Act (LSGA), 1999**

#### **▪ Legal materials drafted**

The LSGA rules and bylaws drafted by the government contain excessive legalese and create confusion regarding different forms of alternative dispute resolution (ADR). In consultation with MLD and MLJPA, TAF supported a redrafting of the rules and bylaws to move away from adjudication towards the mediated settlement of disputes. Partner IGD drafted legal materials that amended, clarified, and detailed existing rules and regulations and simplified operational-level directives/procedures. The rules and bylaws include simple procedures for mediation, such as minimum criteria for the selection of mediators, a code of ethics for mediators, and procedures for registering disputes, recording proceedings, and certifying mediated settlements. The aim was to clearly establish the parameters for an effective mediation process that enables settlement of disputes by non-legal or lay persons in an interactive and amicable setting.

TAF obtained copies of all legal materials worked out by other agencies, circulated copies to NGOs and donors, and ensured the consideration of these materials in finalizing IGD's draft. The draft was finalized through engagement with the government and in coordination with donors and other organizations involved. In June 2003, an English version of the materials was shared with a TAF-convened consortium of donors and partners involved or interested in alternate dispute resolution.

For the rules, bylaws, and procedures to become applicable, the government must lift its current embargo on implementation of the clause on judicial rights of local bodies under the LSGA. This is typically done by publishing an enactment order from the cabinet in the Nepal Gazette. Given the current situation and the preoccupation of government with law and order, and the absence of parliament and local elected bodies, very little progress is expected on this front. As and when substantive discussions resume in government and among donors on enabling legislation and procedures for ADR, TAF will resume advocacy for amendment of the LSGA and other necessary procedures.

### **Objective 2. Building institutional capacity of VDCs and Municipalities to conduct mediation**

As explained earlier, TAF made the decision to work through NGOs as primary implementers of this pilot project. Thus, capacity building had to be directed first at NGO staff and other personnel in project locations, following which relevant VDC and municipal officials were also brought into the program. The main capacity-building intervention was training, which TAF developed and applied using a deliberate, pedagogical, and gradual approach, based on experiences with pioneering mediation in Bangladesh, the Philippines, and Sri Lanka. Development of a comprehensive training package was followed by the development of a



pool of core and master trainers who then delivered intensive training in two separate rounds (basic and refresher training) to community mediators.

- **Training materials**

With TAF technical support, IGD drafted training materials to train master trainers and community mediators in the early part of the pilot project.<sup>2</sup> These draft training and reference materials were revised immediately after refresher training for master trainers in October-November 2003. The revisions took careful account of feedback from field-tested master trainers and assured that the information presented is consistent with training. In the revised mediation manual and workbook, key concepts were clarified, more examples and illustrations were provided, and language was further simplified to facilitate better understanding by local-level community mediators. The revised training materials were distributed to all community mediators at their refresher training. The final package of the training materials comprises: 1) mediator's training workbook, 2) mediator's manual, 3) trainer's guide with glossary, 4) trainers' guide, and 5) slides and charts.

- **Trained and field-tested master trainers**

With TAF support, international consultants provided technical assistance to train and apprentice three Nepali core trainers and an initial batch of 35 master trainers in early 2003. Following a redesign of training plans, these three core trainers then prepared a second batch of 27 master trainers.<sup>3</sup> The eight-day training sessions included instruction on interest-based problem solving and training skills. Mediation skills were amply supplemented with opportunities for candidates to practice those skills using case studies and simulated situations. Following three months of field-level experience in training community mediators, and as recommended by TAF's international consultants, all master trainers were provided refresher training in two rounds during October and November 2003.

By the end of second round of training, a total of 62 master trainers were available to conduct community-level training in the 11 project districts. Of the 62 master trainers, 44 were local trainers based in districts, i.e. four per project district, whereas five NGO coordinators and 13 backstopping master trainers were Kathmandu based. The trainers were carefully selected on the basis of caste/ethnicity, gender, and profession in order to ensure inclusiveness and broader representation in the pool of master trainers. Among the 62 trainers, 26 are women and 36 are men; and 19 are Brahmin/Chhetris, 22 are minority castes/ethnicities, and five are Newars.

---

<sup>2</sup> Prior to the selection of VDCs and municipalities at the district level, and to the beginning of mediation training, a baseline survey was conducted to determine and assess the existing situation such as population size, caseload at the district level, capacity of local government bodies to resolve disputes, and similar information. Baseline data were collected using primary and secondary sources. Discussions with stakeholders as well as focus group discussions were conducted at DDC and VDC level. Of the 576 VDCs and municipalities in the target 11 districts, 124 (22 %) were selected for the survey.

<sup>3</sup> Concerned that too many layers of trainers would deplete the quality of training, the original plan for a pool of district trainers was dropped. Instead, TAF decided that master trainers would assume direct responsibility for training community mediators. This change required enlarging the pool of master trainers through a second round of master trainer training.

- **Trained community mediators**

Partner NGOs began training of local-level community mediators in the last week of June 2003. A total of 1,327 community mediators were trained by September 2003, selected from the 64 VDCs and 11 Municipalities covered by the project. Just prior to rolling out actual mediation services, a two-day refresher training course was conducted to clarify and reinforce key concepts necessary to fully prepare and update community mediators. The training also introduced community mediators to the administrative process, documentation, and data collection forms that were to be used during actual mediation.

In general, the project's community mediators are teachers, social workers, members of natural resource users' groups, traditional mediators, and pensioners ranging from 40 to 70 years of age. Table 1 below provides some of their demographic characteristics.

**Table 1: Select mediator demographics**

Mediators (# and %)	Female	Male	Brahmin/Chhetri	Indigenous	Dalit
1327	377	950	665	539	123
100%	28%	72%	50%	41%	9%

- **Local-level government officials knowledgeable of mediation**

In conjunction with the above-mentioned refresher training for community mediators, TAF supported two-day orientation sessions on mediation for VDC/Municipality secretaries and other officials in each project location. The orientation laid emphasis on enhancing the understanding of the participants on conceptual and practical aspects of mediation, by giving them an opportunity to observe relevant components of mediation training, such as role-plays on the four phases of interest-based facilitated mediation. In addition to reinforcement on mediation concepts and practices, the officials were provided orientation on the administrative process to register and refer disputes for mediation, and the use of all documents needed to support mediation sessions. This knowledge helped them to identify their responsibilities in supporting mediation effectively. This orientation also contributed to building better relationships among local bodies, partner NGOs, and community mediators in project areas.<sup>4</sup>

- **Comprehensive support and monitoring documentation**

In addition to training and orientation, another important capacity-building intervention was the development of documentation essential for supporting and monitoring the process of mediation. Each is briefly described below.

---

<sup>4</sup> In conjunction with and complementary to USAID-supported activities, TAF supported interaction programs at the central and district level with its General Grant funds. Partners organized interaction programs on community mediation with district-level stakeholders, especially government line agencies and administrative agencies that exercise quasi-judicial authority. The objectives of the interaction program were to impart an understanding about the rationale and significance of alternative dispute resolution especially mediation and its appropriateness in dispute resolution at the local level; share information about the pilot community mediation project; and to build rapport as well as linkage to secure their support and cooperation in implementing the pilot project. Following the series of district-level interaction programs, TAF supported a national-level interaction program on community mediation on August 27, 2004. The objectives of the interaction program were to apprise national-level stakeholders of the activities of the community mediation program, provide a forum for assessing strategic and practical needs regarding implementation of mediation program, and secure commitment of stakeholders to support the process of strengthening and institutionalizing community mediation.

- ❑ A mediator **Code of Conduct** is provided to each mediator and displayed prominently during each mediation session.
- ❑ A disputants' **Orientation Brochure** is provided to each disputant along with a briefing at the first meeting.
- ❑ **Reference Materials** are provided to community mediators.
- ❑ **Reference Materials** are provided to VDC and municipality officials.
- ❑ **Administration and Record-keeping Forms** (see Appendix B) and comprehensive **pre and post-mediation data collection forms** (see Appendix C) are used by NGO partners, local government, and community mediators for information on disputants, disputant evaluation of the mediation process, record keeping of disputes, and so on.

### **Objective 3. Increasing public awareness of community-level dispute resolution**

#### ▪ **Social Marketing**

TAF's technical partner, Social Marketing and Distribution Nepal (SMD), completed social marketing of mediation in close coordination with partner NGOs in each district. SMD and TAF's partners designed, produced, and distributed 11,000 posters and 11,000 consumer leaflets imprinted with the mediation service logo and name. SMD also distributed 120 audiocassettes for use in public address announcements, and conducted street dramas on mediation in each of the 75 project locations. The estimated number of audience directly reached through the street dramas was over 46,000, with an average of 650 people viewing each performance. Audiences were surveyed for feedback at every performance. Most of the audiences suggested conducting the drama in each ward of the project VDCs and municipalities for better publicity and education. The street dramas were highly appreciated by partners, target groups, and local authorities. In many locations, local newspapers and cable networks covered part or all of the street drama performances.

### **Project Impact**

The USAID-supported pilot project has established the interest-based facilitated model of community mediation as an effective alternative for dispute resolution in Nepal's socio-cultural setting. Communities are experiencing quick, inexpensive, and effective resolution of disputes, improvement in social and family relations, and improvements in social justice. As a result, there is a high level of commitment to this program at the local level. Furthermore, these successes have increased the capacity and energy of local citizens. Local citizens have great hopes, high energy, and many good ideas for the future of community mediation in their villages and municipalities.

The early successes and high level of acceptance of interest-based facilitated mediation in the 75 pilot locations indicate that the mediation program is meeting a great need of local communities in a culturally acceptable way. In addition to the burgeoning requests from government and quasi-judicial bodies in their areas, many mediators receive frequent requests for cases to be "heard" from surrounding communities as well. In many project areas where VDC secretaries have been recalled or transferred to District Development Committee offices, the project's mediation program was the only formal source to register and resolve disputes at the local level.

- Over the period of actual provision of mediation services (January - September 2004), 1,473 applications were registered for resolution; of which 1,185 cases or 80 percent were

settled (Table 2). More importantly, only nine percent of cases remained unsettled. The rate of growth in cases registered as well as the rate of settlement not only compare very favorably to other ADR efforts in Nepal (DFID/ESP and UNDP) but also exceed them on a monthly basis.

**Table 2: Status of cases registered for mediation**

Cases (# and %)	Settled	Open or pending	Not settled
1473	1185	159	129
100%	80%	11%	9%

- Table 3 below shows the most frequently mediated disputes; a detailed breakdown of all cases mediated during the pilot project period is provided in Appendix D. Of the 1,473 cases registered, 20 percent were physical assault, 18 percent land disputes, 13 percent transaction disputes, 12 percent domestic disputes, 8 percent defamation, and 29 percent disputes of other kinds.

**Table 3: Most frequently mediated disputes**

Cases (# and %)	Assault	Land	Transaction	Domestic dispute	Defamation	Others
1473	286	271	194	175	115	432
100%	20%	18%	13%	12%	8%	29%

- The project was successful in encouraging a broad cross-section of rural Nepali society in its target communities to utilize mediation services (Table 4). Out of 2,973 disputants, males comprise a large majority, to a great extent reflecting the types of cases shown in Table 3. However the number of female disputants was also significant, showing the appeal of mediation services to both male and female. With regard to caste/ethnicity, Brahmin/Chhetris and indigenous groups together comprise a significant portion of the population that utilized mediation services, with lower caste and others also being quite open to using mediation services. Its broad appeal, particularly across socioeconomic strata, indicates that mediation can not only be efficient in conflict resolution but also effective in promoting communal harmony and peace.

**Table 4: Broad utilization of community mediation services**

Disputants (# and %)	Female	Male	Brahmin/Chhetri	Indigenous	Dalit	Others
2973	790	2183	848	918	480	727
100%	27%	73%	29%	31%	16%	24%

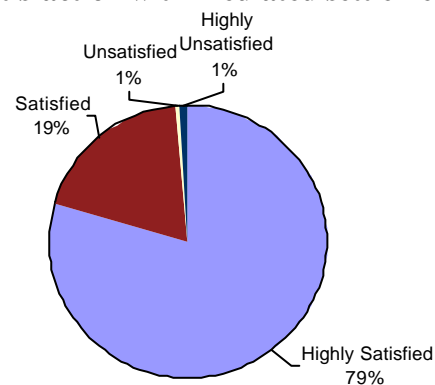
- Mediation services were popular among local communities, as reflected by the number of disputes registered with VDCs and Municipalities each quarter (Table 5). This is a function of demand generated through quality services but also the impact of excellent social marketing of mediation services in the target communities. Over time, though, it is likely that the rate of case registration will drop, to reflect a more natural level of disputes in communities as they become both more amicable and more amenable to settling some disputes amongst themselves.

**Table 5: Popularity of mediation services**

	1st Quarter	2nd Quarter	3rd Quarter
<b>Cases</b>	212	640	1473
<b>Rate</b>	NA	200%	130%

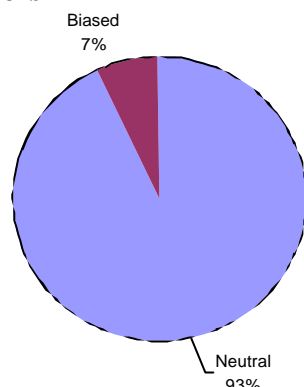
Interestingly, the number of disputes registered for mediation appears to correlate to the demography of each district. For example, Mustang district has a relatively homogeneous society comprised of Thakalis and Gurungs, but districts like Chitwan, Nawalparasi, and Banke are more heterogeneous, with Brahmin/Chhetris, indigenous groups, and dalits distributed throughout the population. Throughout the project period, more heterogeneous districts reported a continuous and sustained increase in the number of disputes registered for mediation, whereas homogeneous districts such as Mustang registered relatively fewer disputes.

- As mentioned earlier, TAF developed procedures for regular monitoring of a significant sample of mediation settlements, especially in cases involving disputants of different gender and social status. From this extensive and growing database on disputant and mediator feedback provided at each mediation session, TAF analyzed a sample of 375 settled cases to understand disputant satisfaction levels and perceptions of fairness and justice. Seventy-nine percent of the disputants said that they were highly satisfied with their settlements, 19 percent were satisfied, one percent was dissatisfied, and another one percent was highly dissatisfied (see figure 1 below and case studies in Appendix E). This satisfaction rating correlates to the earlier table showing a similar rate of case settlement.

**Figure 1: Disputants' satisfaction with mediated settlements**

- The neutrality of mediators is critical to the process of training mediators and supporting mediation services, for neutrality determines the quality of settlement, which, in turn, directly affects durability of settlement. From the sampled cases, 93 percent of the disputants said they felt that the mediators were neutral, while seven percent believed the mediators were biased toward one party (see Figure 2). Among this seven percent minority, a few disputants felt that the mediators concentrated on one party's version of the dispute, or did not provide suggestions or advice to the disputants, or nudged the disputants to come to an agreement, or were somehow connected to disputants. Overall, however, this finding provides an overwhelming vote of confidence in favor of the rigor and substance imparted during mediation training and the discipline of the mediation process itself in ensuring satisfactory and durable settlements.

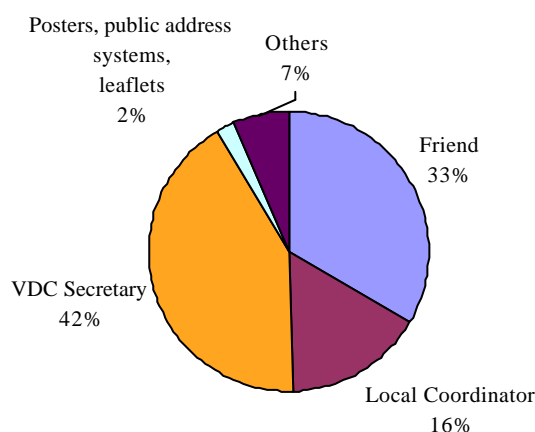
**Figure 2: Neutrality of mediators**



- The pie chart in Figure 3 below shows the media through which parties who brought cases for mediation learned of the service. Clearly, the close collaboration of partner NGOs with local bodies, particularly secretaries of target VDCs and Municipalities, and the interaction programs held to link district-level administration and court officials were crucial to the program's popularity and legitimacy. The rapport with local government bodies was so effectively built and maintained that by project's end, many VDCs committed to allocate resources to support activities related to mediation, and several district government offices pledged to extend financial support to mediation as part of their annual program. District stakeholders publicly pledged their support for the implementation of mediation. In many project areas, district court judges included the project's community mediators in the roster of district court mediators for court-referred mediation. In districts like Banke, Dadeldhura, Dhankuta, Dhanusha, and Nawalparasi, judges started referring cases to the community mediators before hearing them in the court.

Word-of-mouth publicity (33%) and the role of the project's local coordinator (16%) must also be noted as important contributions. While it is not too clear from figure 3 about the contribution of social marketing to overall public knowledge of mediation services, there is no doubt that the massive, initial publicity first generated through targeted and thorough efforts galvanized disputants to seek out the project's mediators in each of their communities.

**Figure 3: Media through which parties found out about mediation services**



- The pilot project has also succeeded in establishing interest-based facilitated mediation as the ADR technology of choice among Nepali institutions and donors. In unequivocal endorsement, the government's Local Development Training Academy (LDTA)—the main training facility for the Ministry of Local Development and related agencies—not only supported the pilot project by providing two senior staff to be trained as core trainers over the two-year project period but also replicated interest-based mediation training several times on its own, using those core trainers and resource materials developed by TAF. The UNDP and UNFPA now use LDTA's support in training local-level officials on mediation for their Decentralized Local Governance Support Program and Population and Reproductive Health Project, respectively. Further, in April 2004, as a member of a network called Local Governance and Resource Institutes in Asia and the Pacific, LDTA organized mediation training in Kathmandu for participants from China, India, Indonesia, Malaysia, Philippines, South Korea, and Sri Lanka.

With the help of the USAID-funded pilot project, TAF successfully founded and catalyzed an evolving multi-donor partnership that offers excellent prospects for the rapid spread of effective and equitable community mediation as a means of increasing access to justice, as well as building a culture of conflict resolution starting from the grassroots. The British government's Department for International Development (DFID), which has supported a relatively modest mediation project in three districts of eastern Nepal since 2001, has been in dialogue with TAF and USAID, with a view to develop a national program on community mediation in many more districts. In addition, the Danish International Development Agency (DANIDA) is considering support for a national program on community mediation, with funds directed towards three districts of mid and far-western Nepal where it has supported development in the past. During the second year of the pilot project, both DFID and DANIDA became participants of a taskforce that, along with TAF, finalized essential elements of such a nationwide community mediation program to be implemented using the pilot project's training process and documentation.

## **Project innovations**

- ***Appropriate and effective mediation technology***

The project implemented an interest-based facilitated community mediation model as the most appropriate and effective approach to community dispute resolution. Facilitated mediation is a process in which people who are involved in a dispute can constructively explore ways to resolve that dispute with the help of local trained mediators. It is based on the principle that the mediator is neutral and does not make decisions for the disputants. Rather, the mediator assists the disputants in a search for their own solutions. The interest-based approach focuses on the discovery, understanding, and respect for the needs and interests of all parties involved in a dispute. Mediated agreements are based on the parties' recognition of the interdependency of their interests.

Facilitated interest-based mediation offers a venue for disputants to explore interpersonal and social interests without the limitations of legal causes and remedies. Parties can involve other stakeholders and community members that may not be relevant or allowable in litigation. Additionally, the parties can include non-legal remedies (such as an apology) and draw more heavily upon community norms and traditions than would be possible in a court of law. Perhaps most importantly, community members are empowered and enabled to gain recognition and respect for their own interests. This strengthens and capacitates individuals and entire communities to resolve conflicts and to build peaceful and

productive social relations in all aspects of community life (see Appendix E for illustrative case studies).

Over the life of the project, this model also enabled constant adjustment of process to better meet local needs as and when perceived. As mentioned earlier, the summit and the joint task force both conveyed the need to include legal aid and human rights advocacy as part of the mediation training and process. By the end of this pilot project (October 2004), plans had been drawn and preliminary consultations completed to include local/district legal aid providers and advocacy/human rights groups in mediation awareness orientation (Objective 3). Future plans are for partner NGOs to develop relationships and referral procedures with these groups to ensure that women and disputants from marginalized groups are informed about their legal rights and have access to legal aid. Partner NGOs will also provide legal assistance for follow-up of mediated settlements and, where necessary, represent marginalized disputants in court.

- ***Dedicated technical assistance for quality control***

Throughout the preparatory and implementation phases of the pilot project, TAF retained expert national and international technical assistance dedicated to maintaining quality of training and of support to mediation services. The same sets of consultants were made available throughout the project period in person or through long-distance communication to support partner NGOs and community mediators. The continuity and familiarity with project and country context were crucial in establishing the foundations of this very successful project.

TAF contracted international consultants through HORIZON Partners for assistance in developing the interest-based facilitated mediation model, developing training materials, delivering training, providing oversight and expertise to ensure the skill and competency of trainers and mediators, as well as overall project monitoring and evaluation. HORIZON Partners is a small U.S.-based mediation and consulting firm dedicated to the advancement of collaborative community and workplace relationships. It specializes in skills and processes that prevent destructive debate and foster constructive dialogue. The principals, Dr. Edward Miller and Ms. Therese Miller, have mediated disputes, facilitated negotiations, and provided training in the United States and Canada, South and Central America, Africa, and Asia. They have established mediation centers in Sri Lanka, Guatemala, and Southeast Asia.

TAF also contracted two national consultants throughout the project period to: a) monitor and visit project areas and provide feedback to partner NGO staff and TAF; b) monitor the effectiveness of administrative and data collection activities as well as consistency of implementation procedures in the project districts; and c) identify the strengths and weaknesses in implementation of mediation. These TAF-supervised Nepali consultants observed and evaluated community mediation sessions, and TOT and mediator training sessions. Their observation provided information regarding the efficacy of training and competence of trainers and community mediators to both TAF and, more importantly, to program participants (trainers and mediators). Their observation also provided input for the revision of training materials and processes.

- ***Social marketing of mediation***

Acutely aware that the success of the pilot project would also depend greatly upon public awareness and acceptance of the mediation process, TAF emphasized and deployed a



professional approach to build awareness and inform all target communities about the availability and use of mediation. In partnership with a technical organization (SMD Nepal) and in close collaboration with partner NGOs, TAF developed a mediation service logo and name, posters, leaflets, audiocassettes, and fully scripted street dramas.

Following pilot testing of concepts and designs in five of the 11 project districts, these posters, consumer leaflets, and audiocassettes were distributed and street dramas performed in each of the project's 64 VDCs and 11 Municipalities, in conjunction with technical assistance on social marketing to the TAF's partner NGOs. The mediation service logo and name were imprinted on every social marketing product (Figure 4).

**Figure 4: Mediation service logo and name**



The street dramas, in particular, proved extremely effective in enhancing public awareness of the mediation process and the means by which mediation services can be accessed. Mediators selected and trained from each location were introduced to the community after each street drama. In order to achieve maximum impact, each social marketing event was carefully timed to coincide with the rolling out of actual mediation services in each location.

▪ ***Learning through reflection***

Throughout the project period, TAF emphasized learning through reflection and feedback from project personnel and beneficiaries. Various creative methods were used to help better understand and tailor training and mediation processes to local contexts.

“Practice sharing” is very important to deepen dispute resolution skills through the sharing of mediation experiences. From January 2004 onwards, TAF supported practice-sharing sessions for community mediators, local coordinators, trainers, VDC/Municipality officials, and community-based organizations. Community mediators and trainers involved in mediation brought their diverse inputs to these sessions, sharing experiences and lessons from their communities and learning from each other. The monthly sessions also provided participants with an opportunity to devise strategies to address potential problems with dispute resolution in their villages.

With the assistance of national consultants retained throughout the project period, NGO partners conducted observation and evaluation of community mediation sessions, as well as periodic observation and evaluation of mediators. The observation provided support and professional development for mediators, as well as a level of quality assurance. Observation also provided input to the ongoing process of revising and improving training materials and processes.

In April 2004, TAF organized a Program Summit in Kathmandu to engage a diverse spectrum of pilot project participants in generating ideas to enhance the effectiveness of the initiative. The Summit objectives were to find and study what was working well in the community mediation program, develop a shared vision in order to generate ideas for future development, and mobilize local action. Well over 60 percent of Summit participants were community mediators, former disputants, and VDC officials from the 11 pilot districts. District-level trainers and coordinators made up another 25 percent of participants, with Kathmandu-based partner NGOs accounting for the remaining 15 percent. Summit participants identified mediator training and selection, as well as NGO coordination and positive local government relations, as core processes enabling the success of the program. Impartiality of mediators, win-win solutions, increasing local capacity, and community peacebuilding were named as the most significant benefits. Participants developed goals, project recommendations, and local action plans to improve mediator effectiveness, expose more members of the community to the skills and benefits of interest-based approaches to conflict resolution, integrate mediation activities into local and district governance functions, and use the community mediation project as a springboard for further community peacebuilding efforts.

- ***Close integration with target communities***

One of the great strengths of this project and its ability to be so successful at the community level was the placement of local residents, trained in interest-based facilitated mediation, in VDC and district-level positions. The backbone of the program was made up of the District Coordinators (one in each district) and District Trainers (2-3 in each district). In addition, Local Coordinators selected from the pool of community mediators and resident in each VDC and municipality ensured the viability of the program at the community level. These full-time coordinators assisted their VDC/Municipality secretary in carrying out administrative responsibilities related to mediation (such as applications, scheduling, etc.) and coordinated practice-sharing sessions for community mediators.

Because TAF used local residents for service delivery, the ownership of the program, participation of the entire target community, and support of local government were all easily and more effectively achieved than if the service had been delivered through Kathmandu-based staff. Especially during a project period of uncertainty and suspicion, locally resident project personnel were trusted and relied upon by the target communities.

- ***Comprehensive database on mediation***

With advice from international consultants and visiting Fulbright scholars, TAF staff developed a comprehensive set of monitoring and evaluation data forms and a computerized database to help track, monitor, and evaluate the mediation process (see Appendix B). Initially, TAF and its partner NGOs tracked the results of all mediations. Local VDC coordinators collected mediation intake data, post-mediation forms completed by community mediators, and evaluations completed by disputants. The District Coordinator of each partner NGO summarized the results monthly, using intake and evaluation forms, along with written settlement agreements. This data was then forwarded on a monthly basis through the central offices of partner NGOs to TAF for entry into a custom-built mediation database. Towards the end of the second year of the project period, when the database was sufficiently large, TAF developed procedures for regular monitoring of a significant sample of mediation settlements, especially in cases involving disputants of different gender and social status. Data was also analyzed on a regular basis

to extract information on type/frequency/location of dispute and disputant, satisfaction levels of disputants, durability of settlement, and so on.

Some of the findings have been discussed in the earlier portion of this report under “Project impact.” Findings have also been used for reporting to USAID and other donors as well as for informing the contents of training and orientations for NGO staff, mediators, VDC/municipality officials, and local advocacy groups (also see case studies in Appendix E).

- ***Coordination with donors and NGOs***

From February 2003, with initial encouragement from the Ministry of Local Development and the Ministry of Law, Justice, and Parliamentary Affairs, TAF started convening a coordination group of all donors involved or interested in ADR in Nepal. These include DANIDA, DFID, SNV, UNDP, and USAID. Meetings took place at intervals of six to eight weeks throughout the project period, with Nepali NGO partners and other concerned Nepali professionals participating in most discussions. In addition to sharing information and materials on all ADR-type activities being planned or implemented, the meetings served as an important forum for achieving conceptual clarity and common understanding about legal dimensions and technical approaches to ADR implementation. Examples of topics discussed include: conceptual issues surrounding the applicability of different ADR models in Nepal; the advisability of mediation and/or arbitration under the Local Self-Governance Act (LSGA); and action that should (or shouldn’t) be recommended regarding rules and regulations on dispute resolution under the LSGA.<sup>5</sup>

## **Sustainability**

As a grant-giving organization that focuses on the civil society component of governance reform, TAF emphasizes NGO capacity building as an essential part of ensuring durability of program interventions. This includes not only training but also creative ways of ensuring the continued funding of project initiatives through linkage to similarly engaged donors/NGOs and local government. Throughout the pilot project period, TAF has emphasized the following three elements as essential for sustainability.

- ***NGO capacity building***

A major focus of all Foundation programs is institutional strengthening of its NGO partners. During the life of the Dispute Resolution through Village Development Committees and Municipalities project, TAF provided technical assistance and intensive training as required to NGOs in adopting and using Foundation-developed management, information, and financial systems. Regular training, coaching/mentoring, and guidance sessions were also organized throughout the project period for NGO coordinators at central and district levels to improve their understanding of the interest -based community mediation process, the link to access to justice and governance, involvement of local

---

<sup>5</sup> TAF also constituted and chaired a Project Steering Committee of all partner NGOs. Initially, the meetings of this committee focused on vital aspects of training; discussion of unit costs for training, administration, and coordination costs; selection of VDCs and community mediators; and liaison with VDC/District/Municipality officials, particularly for orientation on mediation, including timing, selection criteria, and providers. As the project progressed, the committee also discussed marketing/public awareness strategy; essential elements of district-level mediation services support; types of cases to be accepted for mediation; and so on.

government in sustainability and program planning, coordination, and implementation. These NGO staff received at least two rounds of training in mediation, closely supervised by Foundation staff and technical consultants.

- ***Link to other mediation donors and NGOs***

As described earlier, TAF was able to successfully bring together other donors and stakeholders interested in ADR for coordination and cooperation purposes. Based on these coordination meetings and on the initial successes of the USAID-supported pilot project, TAF was able to engage DFID and DANIDA in discussions on developing a national program on community mediation in many more districts. Because of their substantive contributions to these discussions and demonstrated capability in supporting mediation in Nepal, many of TAF's partner NGOs are also now in a position to assist DFID in implementing its program expansion plans across the country. TAF has been following with the Enabling State Program of DFID to negotiate program components and assist with NGO selection.

- ***Support for consolidation***

During the pilot project period, TAF sought continuously to bring in additional resources to not only expand coverage of mediation services to other districts and VDCs, but also to consolidate services in locations that have had mediation services for a year more. Consolidation is best achieved by recurrent training for mediators and an endowment fund that supports minimum expenses incurred for and during the mediation process. This model for ensuring sustainability of service provision was found to be highly successful in TAF's USAID-supported reproductive health program, and such funds have, subsequently, also been used to support capacity-building initiatives such as refresher training, in-country observation visits, meeting costs, and other essential expenses.

In November 2004, TAF was successful in obtaining USAID support for consolidating and expanding community-based dispute resolution under CA No. 367-A-00-05-00006-00. Using this support, TAF will initiate the disbursement of funds to partner NGOs to create endowment funds in approximately 50 of the original 75 pilot locations during 2005. These funds will be partially matched by contributions from VDC development budgets, with the total amount placed in high-interest savings accounts. The interest income will be used to support costs of providing mediation services, such as mediator expense reimbursement and VDC stationery costs. Each endowment fund, as agreed upon by partner NGOs and VDCs, will be operated jointly to ensure accountability in management.

VDCs and municipalities participating in the program will formally commit to contribute to the enlargement of endowment funds every year. This willingness to contribute is already seen in 30 of the 75 pilot project locations, with VDCs having separated out modest funds to support mediation services from their annual development budgets. The establishment of permanent mediation support funds will be an important step in the long-term sustainability of mediation services in rural Nepal.

## **Lessons Learned and Recommendations**

In addition to the many successes of this Dispute Resolution through Village Development Committees and Municipalities project, several lessons were learned and new ideas developed for further improvement and strengthening of the program. To the extent that

followon funding has been available, TAF has incorporated almost all the following recommendations in ongoing mediation program activities.

- **Mediator certification**

Certification is a critical component of ensuring quality of the mediation services provided by local volunteer mediators. It is essential to develop objective and consistent standards for the certification of mediators and trainers, following which certification should be introduced to encourage and distinguish those who have received training and on-going development in the skills and practices of facilitated, interest-based mediation.

- **Development of objective nomination and selection procedures for local mediation board/pool**

Objective mediator nomination/appointment practices are the strength of the program, and minimize political maneuvering in the selection process. Objective criteria and consistent community practices should be developed to identify and select persons to be trained and appointed to the local mediation pool or board. Additionally, targets should be set for representation of women and marginalized groups on local mediation boards. These targets should be aggressive yet realistic, and therefore should probably vary according to location.

- **Simplification and standardization of administration, recordkeeping, mediation evaluation forms**

It is necessary to refine the procedures necessary to ensure full and equal access to mediation services. The forms for application for mediation services, evaluation and follow-up must be simplified and streamlined. Procedures should be developed for the collection and maintenance of records.

- **Implementation of consistent practices for the recognition of mediator's volunteer services and reimbursement of expenses**

Local mediators provide their services on a voluntary basis. In order to encourage them to continue the service, administrative procedures need to be developed for mediator expense reimbursement (travel and meals), mediator recognition practices, and the provision of resources and supplies to VDC Coordinators. local recognition practices need to be developed.

- **Assurance of social justice through advocacy and legal aid**

In addition to including local/district legal aid providers and advocacy/human rights groups in the all orientations, relationships and referral procedures should be developed with these groups to ensure that women and disputants from marginalized groups are informed about their legal rights and have access to legal aid. Special attention should be also directed towards expansion of training modules on basic legal rights and human rights conventions. While the interest-based facilitated mediation process excludes legal advocates from the process, it does depend on well-informed disputants willing and able to state their interests in mediation. In addition, disputants involved in mediation must have the ability to pursue their case in court in the event that mediation is not successful. In some cases, the availability of legal aid to a marginalized party encourages the advantaged party to participate in a mediation process. Legal assistance should be provided for follow-up of mediated settlements and, where necessary, to represent marginalized disputants in court.

- **Practice sharing**  
The practice sharing sessions used to deepen mediator skills in this project were found to be vital yet low-cost forums to share experiences, learn, and devise coping strategies. They also served to bring local stakeholders closer to each other, building mutual trust and respect. These sessions should be continued.
- **Publication of quarterly bulletin for community mediators**  
A simple low-budget bulletin should be designed and published to provide information, recognition and professional development for local community mediators. The bulletin could include program-wide announcements, success stories, mediation hints & tips, short articles highlighting important aspects of the mediation process, recognition for new mediators, and so on.
- **Conduct regular observation and evaluation of mediation services**  
Observation provides support and professional development for mediators, as well as assures a minimum level of quality. Observation and evaluation of community mediation sessions, as well as periodic observation and evaluation of mediator and mediator training sessions should be continued.
- **Local personnel**  
As discussed earlier, one of the reasons for the success of the project at the local level is the placement of local coordinators, trained in interest-based facilitated mediation, in VDC and district-level positions. The involvement of local residents in the program ensures its viability, and this practice should be continued.
- **Involvement of local stakeholders**  
Throughout the project period, formal and informal interactions with mediators, local development officers, VDC secretaries, members of civil society, and community residents greatly helped in coping with and overcoming problems and issues that arose during implementation. Participation by local stakeholders is thus important for effective implementation. Local line agencies, government, and relevant stakeholders must be informed about the program and the process in advance. Wherever possible, key local government officials should be included in training and orientation programs. Consultation with local stakeholders in rolling out program activities is an effective strategy to establish ownership of the program.

## Appendix A: Subgrantee Contact Information and District Coverage

NGO	Contact person and details	Districts covered
Center for Legal Research and Resource Development (CeLRRd)	<p>Sudeep Gautam NGO Coordinator P.O. Box No. 6618, Dadhikot-9, Bhaktapur, Nepal Phone No. No.: 977-1-6633519,6634455,6634663 Fax: 977-1-6634801 Email: <a href="mailto:celrrd@wlink.com.np">celrrd@wlink.com.np</a></p> <p>Kumar Sharma District Coordinator Nepalgunj – 17 Banke Bagiya, Banke Phone No: 081-521168; 523344 Email: <a href="mailto:celrrd@npj.wlink.com.np">celrrd@npj.wlink.com.np</a></p> <p>Gyanu G.C. District Coordinator Bardhghat, Nawalparasi Phone No.:078-580190; 580185</p> <p>Ram Krishna Adhikari District Coordinator Nilkantha, Dhading Phone No.: 010-520254; 520049</p>	Banke, Dhading, Nawalparasi (18 VDCs, 2 Municipalities)
Institute for Governance and Development (IGD)	<p>Shushila Sherchan NGO Coordinator P.O. Box No. 8134, Lazimpat, Kathmandu Phone No.: 977-1-4428744 Fax: 977-1-4428536 Email: <a href="mailto:igd@igd.org.np">igd@igd.org.np</a></p> <p>Bandhu Raj Paudel District Coordinator Dur Sanchar Road Bharatpur, Chitwan Phone No.: 056-526742</p> <p>Srijana Hirachan District Coordinator Marpha, Mustang Phone No. 091-446511(PCO)</p> <p>Fani Maya Rana District Coordinator Damauli Bazar Phone No.: 065-561382</p>	Chitwan, Mustang, Tanahu (12 VDCs, 4 Municipalities)

Forum for Protection of Public Interest (Pro Public)	<p>Prakash Mani Sharma Executive Director/NGO Coordinator P.O. Box No. 14307 Anamnagar, Kathmandu Phone No.: 977-1-4265023; 4268681 Fax: 977-1-4269828 Email: <a href="mailto:propublic@wlink.com.np">propublic@wlink.com.np</a></p> <p>Sameer Shrestha District Coordinator Janakpurdham, Dhanusa Phone No.: 041-521538</p> <p>Bhoj Raj Baral District Coordinator Hariwon, Sarlahi Phone No.: 046-570159 (PCO)</p>	Dhanusha, Sarlahi (20 VDCs, 2 Municipalities)
Service for Unprivileged Section of Society (SUSS)	<p>Nayan Shrestha NGO Coordinator P.O. Box No. 3241 Dillibazar, Kathmandu Phone No.: 977-1-4434673 Fax: 977-1-4358931 Email: <a href="mailto:suss@info.com.np">suss@info.com.np</a></p> <p>Meena Giri District Coordinator Hulak Chowk Beech Bazar, Dhankuta Phone No.: 026-520114</p> <p>Anita Gurung District Coordinator Prithivi Chowk, Phokhara, Kaski Phone No.: 061-533168</p>	Dhankuta, Kaski (9 VDCs, 3 Municipalities)
Rural Women's Development and Unity Center (RUWDUC)	<p>Shoba Basnet NGO Coordinator P.O. Box No. 13205 Jawalakhel, Lalitpur Phone No.: 977-1-5547250; 5535597 Fax: 977-1-5549755</p> <p>Rohit Deuba District Coordinator Tufan Dada, Amargadi Dadeldhura Phone No.: 096-420402</p>	Dadeldhura (4 VDCs, 1 Municipality)



## **Appendix B: Administration and recordkeeping forms**

### **Application For Mediation**

1. Applicant Name
2. 2<sup>nd</sup> Applicant Name (*if both Disputants are applying together*)
3. District
4. Ward
5. VDC
6. Contact information
7. Who will contact other Disputant?
8. Name(s) of others involved
9. Who needs to be present at mediation?
10. Main concern:
11. Have you discussed this case with an attorney?
12. Is there an active legal case regarding this issue?
13. Case # Assigned

### **Notice to 2nd Disputant**

*(completed by VDC or Disputant #1)*

1. Case #
2. Name of 2<sup>nd</sup> Disputant
3. District
4. Ward
5. VDC
6. Name of initial Applicant for Mediation (Disputant #1)
7. Main Concern identified by Applicant:

*(to be completed by Disputant #2)*

8. Are you willing to attend an Orientation session to learn about Community Mediation and to consider agreeing to participate in Mediation on this issue?
9. Contact information
10. Name(s) of others involved
11. Who needs to be present at mediation?
12. Have you discussed this case with an attorney?
13. Is there an active legal case regarding this issue?

### **Notice of Mediation**

1. Names of Disputants
2. Names of Mediators
3. Date, Time, Location of Mediation Session

## Appendix C: Evaluation Forms

### Community Mediation Project Evaluation Form 1

#### Pre-Mediation Data

*[To be completed during orientation/intake by Local Coordinator or VDC secretary]*

Case # \_\_\_\_\_

#### Intake data:

1. How did you hear about the mediation program?
  - a. Friends
  - b. Local Coordinator
  - c. VDC Secretary
  - d. Wall Posters/Miking/Leaflets
  - e. Brochure
  - f. Other\_\_\_\_\_
2. Have you ever taken a dispute to the local authorities before?
  - a. Yes
  - b. No
3. If yes, where did you go?
  - a. Police Post (Chowki)
  - b. District Police Office
  - c. CDO Office
  - d. District Court
  - e. Ward Office
  - f. VDC Office
4. How long has this dispute been going on?
5. Did you try to resolve this problem before coming to mediation?
  - a. Yes
  - b. No
6. If so, where did you go?
  - a. Police Post (Chowki)
  - b. District Police Office
  - c. CDO Office
  - d. District Court
  - e. Ward Office
  - f. VDC Office
7. What happened? (calls for narrative answer)

Case Characteristics—type of case, or nature of the dispute

## **Disputant Demographic data**

### **Disputant A. (Applicant)**

A1. Name:

A2. Age:

A3. District:

A4. VDC/ MC:

A5. Ward:

A6. Gender

a. Female

b. Male

A7. Ethnic/Caste group:

A8. Main Occupation:

a. Agriculture

b. Employment

c. Trade/Shop

d. Labour Wage

e. Other\_\_\_\_\_

A9. Approx. Annual Income in Rupees. (*or approx. annual family income*)

a. Agriculture .....Rs. \_\_\_\_\_

b. Employment.....Rs. \_\_\_\_\_

c. Trade/Shop .....Rs. \_\_\_\_\_

d. Labour Wage.....Rs. \_\_\_\_\_

e. Other.....Rs. \_\_\_\_\_

f. TOTAL INCOME...Rs. \_\_\_\_\_

A10. Education level:

a. Primary

b. Secondary

c. Senior secondary/Intermediate

d. College

A11. Role in mediation (initiator, responder, support person, etc.):

A12. Relationship to other Disputant (neighbor, family member, employee/employer, etc.):

**Repeat Player** –Information about whether a participant has previously utilized mediation.

A13. Have you previously participated in mediation?

a. Yes

b. No

A14. If yes, was it with this community mediation project?

a. Yes

b. No

A15. If no, who was it with? \_\_\_\_\_

**Disputant B. (Responder)**

B1. Name:

B2. Age:

B3. District:

B4. VDC/ MC:

B5. Ward:

B6. Gender

a. Female

b. Male

B7. Ethnic/Caste group

B8. Main Occupation:

a. Agriculture

b. Employment

c. Trade

d. Labour Wage

e. Other\_\_\_\_\_

B9. Approximate annual income in rupees (*or approx. annual family income*)

a. Agriculture .....Rs. \_\_\_\_\_

b. Employment.....Rs. \_\_\_\_\_

c. Trade/Shop .....Rs. \_\_\_\_\_

d. Labour Wage.....Rs. \_\_\_\_\_

e. Other.....Rs. \_\_\_\_\_

f. TOTAL INCOME...Rs. \_\_\_\_\_

B10. Education level

a. Primary

b. Secondary

c. Senior secondary/Intermediate

d. College

B11. Role in mediation (initiator, responder, support person, etc.):

B12. Relationship to other disputant (neighbor, family member, employee/employer, etc.):

**Repeat Player** –Information about whether a participant has previously utilized mediation.

B13. Have you previously participated in mediation?

a. Yes

b. No

B14. If yes, was it with this community mediation project?

a. Yes

b. No

B15. If no, who was it with? \_\_\_\_\_

## Community Mediation Project Evaluation Form 2

### Post-Mediation Data—By Local Coordinators

*[To be completed after the mediation by Local Coordinator]*

Case # \_\_\_\_\_

Disputants' Names: a.

b.

Mediators' Names: a.

b.

c.

1. Date of filing application:
2. Date of first mediation session:
3. Time from filing of application to first mediation session: \_\_\_\_ days
4. Length of mediation: \_\_\_\_\_ hours
5. Was an agreement signed in mediation?
  - a. Yes
  - b. No

### **Durability of Mediated Outcomes**

6. Follow-up \_\_\_\_ months later with each disputant
7. If an agreement was reached in mediation, has it effectively addressed the issues?
  - a. Yes
  - b. No
8. Follow-up: If an agreement was reached in mediation, have the provisions of the agreement been followed or implemented?
  - a. All provisions have been followed or implemented
  - b. Some (but not all) provisions have been followed or implemented
  - c. None of the provisions have been followed or implemented

## Community Mediation Project Evaluation Form 3

### Post-Mediation Data—By Mediators

*[To be completed after the mediation by each mediator, with assistance of Local Coordinator if necessary.]*

**Case #:** \_\_\_\_\_

**Disputants' Names:**

**Mediator Chairperson:**

**Co-Mediators:**

**Your name:**

1. How satisfied are you with the outcome of the mediation?

- a. Very dissatisfied
- b. Somewhat dissatisfied
- c. Somewhat satisfied
- d. Very satisfied

2. How prepared did you feel to conduct this mediation?

- a. Very unprepared
- b. Somewhat unprepared
- c. Somewhat prepared
- d. Very prepared

3. What, if any, further training do you think you need? Be specific on what topics you would like to be covered.

4. What worked well in the mediation?

5. What did not work well?

6. What support do you need from the District trainers/VDC Secretary/Local Coordinators?

7. Did the mediation team work well together?

- a. Yes
- b. No

8. If not, what would help the team to work together more smoothly?

## Community Mediation Project Evaluation Form 4

### Post-Mediation Data—Disputant Evaluation

*[To be completed after the mediation by each disputant, with assistance of Local Coordinator if necessary.]*

Case # \_\_\_\_\_

The information you provide on this form will remain confidential within the administration of the mediation program. Data collected will be tabulated and used for evaluation of this pilot mediation project. Mediators will not see your individual responses.

1. Was an agreement signed in mediation?
  - a. Yes
  - b. No
2. If an agreement was not reached in mediation, what do you plan to do?
  - a. Seek resolution through:
    - i. Police Post (Chowki)
    - ii. District Police Office
    - iii. CDO Office
    - iv. District Court
    - v. Ward Office
    - vi. VDC Office
  - b. Seek an informal agreement or settlement with the other party.
  - c. Drop the concern.
  - d. The concern remains outstanding.
  - e. I don't know
3. How would you describe your relationship with the other disputant(s) before the mediation?
  - a. Very cooperative
  - b. Somewhat cooperative
  - c. Somewhat adversarial
  - d. Very adversarial
4. How would you describe your relationship with the other disputant(s) after the mediation?
  - a. Very cooperative
  - b. Somewhat cooperative
  - c. Somewhat adversarial
  - d. Very adversarial
5. The other disputant listened to my views.
  - a. Strongly agree
  - b. Agree
  - c. Disagree
  - d. Strongly disagree
6. The other disputant learned something new about my point of view.
  - a. Strongly agree
  - b. Agree
  - c. Disagree
  - d. Strongly disagree
7. I learned something new about the other disputant's point of view.
  - a. Strongly agree
  - b. Agree
  - c. Disagree

d. Strongly disagree

8. How well did the mediators understand your issues and concerns?

- a. Understood fully
- b. Understood partially
- c. Understood not at all

9. Did the mediators allow you adequate time to tell your stories?

- a. Yes
- b. No

10. How respectful or disrespectful were the mediators toward you?

- a. Very respectful
- b. Somewhat respectful
- c. Somewhat disrespectful
- d. Very disrespectful

11. Did you feel pressured by the mediators to reach an agreement?

- a. Yes
- b. No

12. Concerning the impartiality of the mediators, how did you feel?

- a. The mediators favored my party
- b. The mediators were neutral, and favored neither party
- c. The mediators favored the other party

13. How satisfied are you with the outcome of the mediation?

- a. Very satisfied
- b. Somewhat satisfied
- c. Somewhat dissatisfied
- d. Very dissatisfied

14. In case this evaluation has failed to cover them, what actions of the mediators—good or bad—were most important to you?

---

---

---

15. Please provide any suggestions for improvement related to the mediation services you received. What could be done differently?

---

---



## Community Mediation Project Evaluation Form 5

### Post-Mediation Data—Mediator Evaluation

*[One form to be completed for each mediator by Trainer after observing the mediation]*

Case # \_\_\_\_\_

Rate the mediator's skill in each of the following areas.

1 = Outstanding; 2 = Very good; 3 = Adequate; 4 = Needs Improvement; 5 = Unsatisfactory

1. Welcoming the parties and setting the ground rules.

Outstanding

Unsatisfactory

1

2

3

4

5

2. Helping each party to tell his/her story.

Outstanding

Unsatisfactory

1

2

3

4

5

3. Identifying interests, needs and concerns of each party.

Outstanding

Unsatisfactory

1

2

3

4

5

4. Framing the issues as open-ended questions.

Outstanding

Unsatisfactory

1

2

3

4

5

5. Using reflective listening skills appropriately.

Outstanding

Unsatisfactory

1

2

3

4

5

6. Attending to relationship issues.

Outstanding

Unsatisfactory

1

2

3

4

5

7. Developing options to address issues identified.

Outstanding

Unsatisfactory

1

2

3

4

5

8. Comparing options to interests identified.

Outstanding

Unsatisfactory



# Appendix D: Breakdown of cases as of September 2004, by partner NGO

Type of Cases	CeLRRd	IGD	Pro Public	RUWDUC	SUSS	Total
Physical assault	86	51	116	6	27	<b>286</b>
Land	87	29	131	9	15	<b>271</b>
Transaction	99	21	52	6	16	<b>194</b>
Domestic dispute	91	65	9	10		<b>175</b>
Defamation	74	1		14	26	<b>115</b>
Crops	12	14	23	3	16	<b>68</b>
Irrigation/drinking water	14	17	16	2	4	<b>53</b>
Partition	20	8	6		1	<b>35</b>
Maintenance	2		28		3	<b>33</b>
Marriage	17	5		2	3	<b>27</b>
Road	9	5			4	<b>18</b>
Public land encroachment	13		4			<b>17</b>
Livestock/ cattle dispute		1	8	4	3	<b>16</b>
Theft	2	10	1	1	1	<b>15</b>
Divorce	11	2			2	<b>15</b>
Wages	4	2	5	1	1	<b>13</b>
Neighbor dispute			12			<b>12</b>
Forest/tree	5	4				<b>9</b>
House rent/squatting	1	4	3		1	<b>9</b>
Accusation of witchcraft	1	1	7			<b>9</b>
Fine/compensation		1	3	2		<b>6</b>
Intoxication					4	<b>4</b>
Custody of children		3				<b>3</b>
Rickshaw dispute	3					<b>3</b>
Construction		3				<b>3</b>
Social dispute		1	1			<b>2</b>
Financial mismanagement			2			<b>2</b>
Forgery		2				<b>2</b>
Appointment of priest		2				<b>2</b>
Insecticides		1				<b>1</b>
Child labor		1				<b>1</b>
Pension		1				<b>1</b>
Trespassing		1				<b>1</b>
Sexual harassment		1				<b>1</b>
Others	30	21				<b>51</b>
<b>Total</b>	<b>581</b>	<b>278</b>	<b>427</b>	<b>60</b>	<b>127</b>	<b>1,473</b>

## **Appendix E: Case Studies**

### **Ancestral Property Dispute**

Kebal Koiri and Ram Lagan Koiri are brothers from Ramgram Municipality of Nawalparasi District in Western Nepal. In 1987, they had a misunderstanding that flared into a protracted dispute over the use of building materials from their ancestral home. Following the dispute, both lived separately in what had originally been an extended family compound. In 1997, Ram Lagan filed a petition in district court to acquire the building materials forcibly taken and used by his younger brother, Kebal. Ram Lagan obtained a verdict in his favor, but Kebal went to appellate court to appeal the decision. Although the appellate court upheld the decision, it was not executed due to hindrances created by Ram Lagan. Then, Kebal filed an application in the district administration office to enforce the decision of the court. The district administrative office referred this case to The Asia Foundation's mediation program.

In the summer of 2004, Kebal requested mediation services from The Asia Foundation's partner, the Center for Legal Research and Resources Development (CeLRRd). Trained community mediators brought the brothers together for discussion and encouraged them to speak to each other, articulate their respective interests, and craft options for resolving the longstanding dispute. After much discussion, the brothers began to understand each other's needs, interests, and values, and were able to lay the groundwork to change their relationship and begin to work together. During the mediation session, they explored many options and agreed to distribute the building materials in a mutually satisfactory way. Kebal confessed that the wood that was in his house belonged to Ram Lagan, but Ram Lagan agreed to let him keep it.

Mediation provided an opportunity for the brothers to acknowledge errors and mend their relationship. They were able to overcome their differences and finally settle a 17-year-old dispute in a quick, inexpensive, and effective way.

### **Caste Discrimination**

Shanti Devi Pariyar, a 45-year old woman, lives with her family in Sarlahi District in Eastern Nepal. An illiterate woman from a lower-caste *dalit* family, Shanti Devi owns only a small plot of land that cannot be irrigated and a simple house. Her neighbors are from upper caste *Brahmin* and *Chhetri* communities. Shanti Devi's relationship with her neighbors began to sour in early 2004. They harassed her about her lower caste background, throwing stones at her house during the night, using abusive language, and preventing her from using the public road. They even threatened to beat or kill her if she did not leave the village. As such incidents increased, an extremely worried Shanti Devi approached her friends for help in solving the problem. When no one stepped forward to assist, she approached an NGO called the Dalit Utthan Samaj.

Dalit Utthan Samaj advised Shanti Devi to seek local mediation services through The Asia Foundation's program. Once she filed her application, the other parties to the dispute were called, mediators were chosen, and the date and time for mediation was fixed. The dispute was then resolved through mediation. According to the understanding reached between the disputants, all parties agreed in writing to forget their previous acrimony and live in harmony by not using abusive language, avoiding petty quarrels, and not indulging in beating or berating anyone. Thus a *dalit* individual benefited from the mediation process and was saved from the ordeal of having to leave her village.

After the dispute was resolved and the agreement implemented, Shanti Devi provided the following impressions about the mediation process:

“Mediators are people of sound character, good behavior, and have an impartial attitude towards solving the dispute. They wish to serve society. Before entering into the mediation process, I had thought that they would not listen to a minority *dalit* woman like me and I might not get justice, but my fears turned out to be unfounded. Nothing like that happened. Rather, they heard my side of the story and tried to understand my point of view. That is how I got full justice. This method and process was very good and well managed. I was not under any pressure from any quarter as used to happen before. In addition, I did not have to spend a single *paisa*. Had I gone to court with this dispute, probably my 15 *kaththa* of land would have been squandered away and I would have been separated from this village.”

### **Transaction Case**

Gangadevi Gautam is a 60-year old illiterate widow residing in the Ward No. 9 of Hariwan Village Development Committee. She does not have any property other than a thatched hut and a small piece of land. Poor, marginalized, and a mother of two; Gangadevi has been making a living by working for others as menial labour. Her daughter has been married off while her son spends his day roaming around, as he has not been able to find work. Other than working for others as menial labour, Gangadevi has no other means of survival.

In 2001, lender Krishna Prasad deceived her into putting her thumb imprint on a loan-deed of Rs. 26,000. Krishna Prasad told Gangadevi that it was a paper related to a public water-supply pipe to be laid near Gangadevi's house. Two years after that, lender Krishna Prasad filed a case in the district court of Sarlahi to get his money back. The court issued summons in the name of Gangadevi but she did not respond due to the advice of her neighbours to not go to court. The court then decided the case in favour of Krishna Prasad unilaterally. The court directed Gangadevi to pay Rs. 40,000 to lender Krishna Prasad. Gangadevi's small land and the thatched hut were impounded, and auction proceedings were to be initiated. At her wits' end, Gangadevi rushed to her neighbors wailing for help. With their help, she filed an application for mediation at the Hariwan VDC office.

Once the application of Gangadevi was registered, the mediation process began. Both Gangadevi and Krishna Prasad were called in the office of the committee, and the date and time of mediation were fixed with their consent. Both disputants were asked to nominate their mediators. On the stipulated date, an understanding was reached between the contending parties at the mediation committee office of Hariwan. According to the settlement, Gangadevi was to pay Rs. 12,000.00 to Krishna Prasad instead of the Rs. 40,000.00 that she had been ordered to pay by the court. After getting the agreed sum of money, Krishna Prasad was to release restrictions on Gangadevi's land and property. The settlement has since been implemented and both of them now have cordial relations. Thus, the mediation process benefited a poor, helpless woman and saved her from becoming homelessness. The mediation process is being praised in and around Hariwan VDC because of the successful resolution of Gangadevi's case.

When Gangadevi was asked to give her opinion about the mediation process, she praised it effusively, saying that it was immensely helpful for illiterate and helpless women like her. She said for those who lack the resources and ability to go to the court, mediation was extremely useful and the program should be given continuity.

### **Gender Discrimination Case**

Kamod Kumari Thanet and Bal Bahadur Thanet are neighbours sharing the same courtyard in Pithauli VDC. Kamod Kumari is a poor, illiterate, and helpless woman without a husband, whereas Bal Bahadur is a well-off social worker and a past ward chairman. Bal Bahadur harassed Kamod Kumari at slightest pretext and the relationship between the two was always tense.

One day, a calf belonging to Bal Bahadur ate the cauliflower planted by Kamod Kumari in her kitchen garden. When Kamod Kumari saw the calf grazing upon her patch of cauliflower, she chased it away towards the house of Bal Bahadur. This incident occurred during the day. By chance, the calf fell sick the same evening. Bal Bahadur thought that Kamod Kumari was a witch, and that she had a hand in making his calf sick as it grazed upon her cauliflower patch. He began to shout at Kamod Kumari threatening her with dire consequences if anything happened to his calf. Kamod Kumari somehow passed the night, anxiously awaiting the dawn. In the morning, she told some of her villagers what she had gone through and asked them to help her. Some of them told her that two of her own villagers, Pashupati Bhattarai and Yugmaya Bhandari, had just come back after receiving training in dispute resolution, and that she should request their help.

About 150 villagers gathered to witness the proceedings. The two mediators met, but they had not solved a single dispute and had just received their training. They recount telling TAF staff that they thought, “What if the dispute is not resolved? Will it be as it was taught to us during the training? If we fail, what will happen to our reputation?” But they decided to take the plunge and continue with the process anyway.

Mediators then asked the crowd to cooperate by keeping quiet, and moved the discussions to a separate, more peaceful place. The ‘first phase’ of mediation, taught in their training, could not take place; but they reframed, rephrased, and developed alternatives just as they were trained to do. Kamod Kumari proposed that Bal Bahadur should publicly apologise for insulting her, a helpless woman, by calling her a witch. Bal Bahadur admitted that he did not know that witches did not exist and had blamed Kamod Kumari out of ignorance. He admitted his mistake and promised not to call anyone a witch in future. Kamod Kumari continued to argue that since Bal Bahadur had called her a witch, others may feel free to insult her in a similar way in the future. To this, Bal Bahadur replied that he would explain to others also that there was no such thing called a witch. He also promised to point out to others that legal complications may arise if the charge of witchcraft is levelled against anybody. At that point, Kamod Kumari said that if Bal Bahadur promised to behave himself, she would be happy to consider the dispute resolved.

When TAF project personnel went to check on the implementation of their settlement agreement, they found that the two Thanet neighbors were living in peace. Their strained relationship had become so normal that they’d actually started referring to each other as mother and son, and help each other whenever required. To this day, they remain grateful to the two mediators for bringing them together. Coordinator Yugmaya Bhandari says this incident has become an outstanding example in Pithauli of what communities can achieve if they look to themselves to settle disputes.